



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/542,254

07/15/2005

Philippe Caplain

38469

2741

116 7590 05/07/2007
PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER

LEE, GILBERT Y

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

05/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/542,254	Applicant(s) CAPLAIN ET AL.	
	Examiner Gilbert Y. Lee	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input checked="" type="checkbox"/> Other: <u>Examiner's Attachment A</u> |

DETAILED ACTION

1. The amendment filed 2/9/07 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 and 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "wherein the supports comprise blocks which are laid out in rows such that each block occupies every other space between the strips ***and in a direction perpendicular to the rows*** and wherein the blocks are present at every second row."

It is unclear to the examiner as what the bolded and italicized section is claiming.

Claim 5 recites "intermediary blocks which are the supports." Claim 1 recites "the supports comprise blocks". It is unclear to the examiner as to whether the applicant is claiming the supports comprising of two different types of blocks. For the purposes of this examination, the examiner is interpreting the claims to be claiming one type block. Appropriate corrections must be made.

Claim 6 recites "rings each of which are the blocks". Claim 1 recites "the supports comprise blocks" and claim 5 recites "intermediary blocks". It is unclear to the examiner as to whether the applicant is claiming the supports comprising of three

Art Unit: 3673

different types of blocks. For the purposes of this examination, the examiner is interpreting the claims to be claiming one type block. Appropriate corrections must be made.

Claims 9 and 14 recite the limitation "the joint" in lines 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-4, 7, and 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being dependent from a rejected claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Note for reference characters A and B refer to Examiner's Attachment A.

3. Claims 1 and 4-18, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lemercier (US Patent No. 4,055,464).

Regarding claim 1, the Lemercier reference discloses a sealing joint (Fig. 1) comprising an external casing (1) and a flexible internal structure (Col. 1, Lines 16-28), characterized in that the internal structure is made of flexible strips (e.g. A), overlaid and separated by supports (e.g. B), the strips being staggered (Fig. 1), wherein the supports comprise blocks (Fig. 1) which are laid out in rows such that each block occupies every

other space between the strips in a direction perpendicular to the rows and wherein the blocks are present at every second row (Fig. 1).

Regarding claim 4, the Lemercier reference discloses the flexible strips being distinct, with a closed outline (Fig. 1).

Regarding claims 5 and 6, the Lemercier reference discloses supports (e.g. B).

Regarding claim 7, the Lemercier reference discloses the flexible strips (e.g. a) being made of metal (Col. 2, Lines 31-36).

Regarding claim 8, the Lemercier reference discloses a sealing joint (Fig. 1) comprising an external metal casing (1) having a flexible internal structure (Col. 1, Lines 16-28) made of flexible, corrugated flexible strips (e.g. A), the strips contacting at support points located on either side of the strip being staggered (Fig. 1).

Regarding claim 9, the Lemercier reference discloses the supports (e.g. B) being laid out in successive rows crossing the joint through two support surfaces opposite the case, the supports and the spaces separating the flexible strips alternating in each row and from one row to another (Fig. 1).

Regarding claims 10 and 15, the Lemercier reference discloses the flexible strips (e.g. A) being concentric (Col. 2, Lines 36-40).

Regarding claims 11 and 16, the Lemercier reference discloses the flexible strips (e.g. A) being circular and flat (Fig. 1).

Regarding claims 12 and 17, the Lemercier reference discloses the supports (e.g. B) radiating (Fig. 1). Note that the supports B have a radius, therefore is considered to be radiating from a center point.

Regarding claims 13 and 18, the Lemerrier reference discloses the supports (e.g. B) being concentric rings with differing radii (Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemerrier in view of Demaray et al. (US Patent No. 6,436,509).

Regarding claim 2, the Lemerrier reference discloses the invention substantially as claimed in claim 1.

However, the Lemerrier reference fails to explicitly disclose projections positioned on an external surface of the casing.

The Demaray et al. reference, an insulating structure, discloses the addition of projections (e.g. 710 or 712).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide projections to the Lemerrier reference in view of the teachings of the Demaray et al. reference in order to provide a continuous contact (Demaray et al., Col. 11, Lines 10-13).

Response to Arguments

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the plates contacting each other at support points, as well as the plates being free to flex between supports) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Note that the newly amended claim only recites "the strips contacting at support points". Claim 7 does not clearly claim that the supports contact each other.

6. With regards to the applicant's arguments of the randomly distributed mesh elements, a new rejection has been made. Please refer to the Examiner's Attachment A for reference characters A and B.

7.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3673

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gilbert Y. Lee whose telephone number is 571-272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

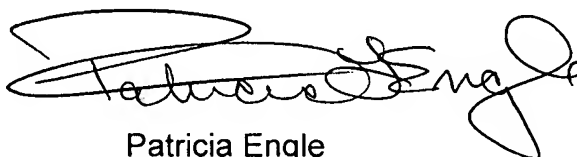
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 3673

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GL
April 30, 2007

A handwritten signature in black ink, appearing to read 'Patricia Engle', with a large, stylized loop at the end.

Patricia Engle
Supervisory Examiner
Tech. Center 3600

EXAMPLE'S ATTACHMENT A

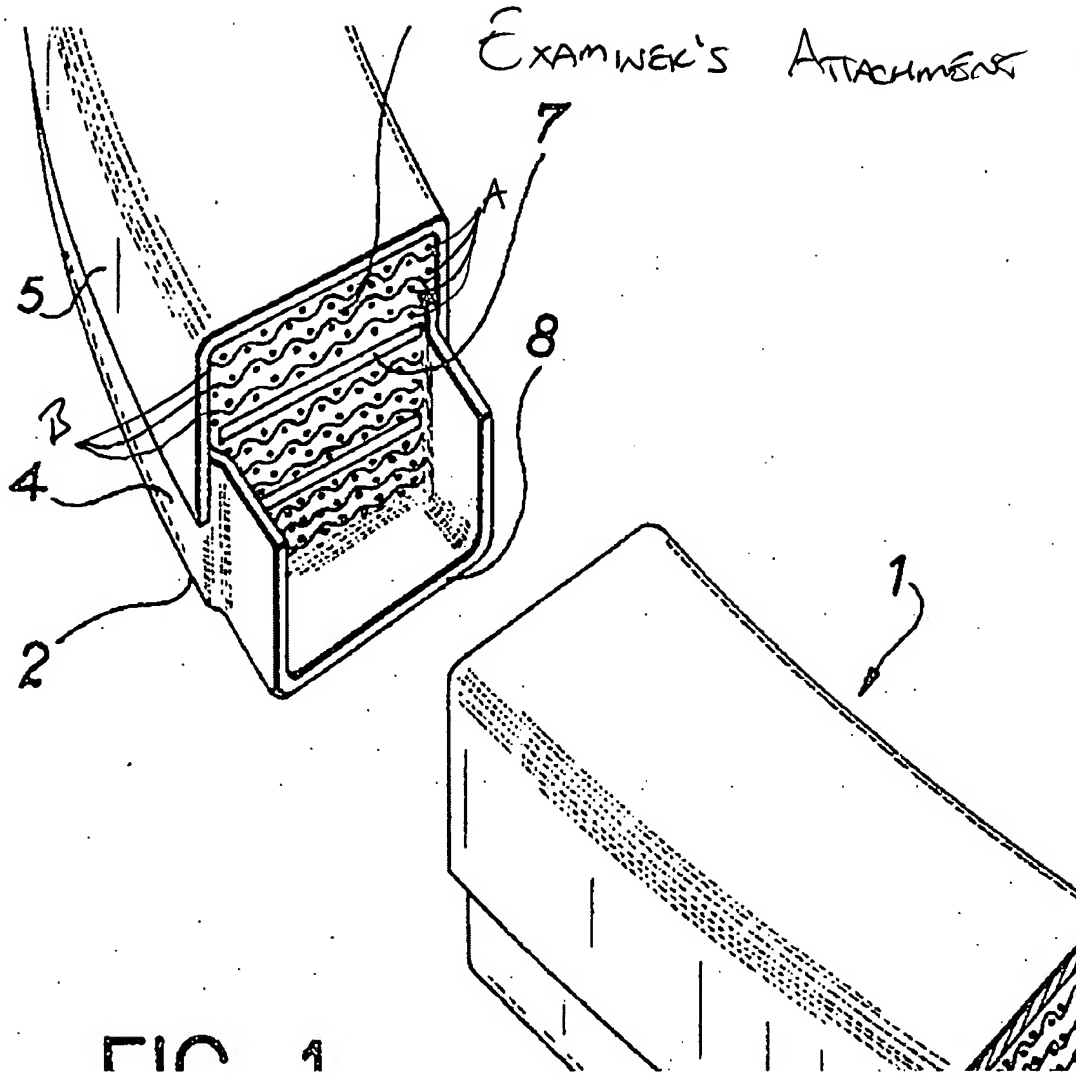


FIG 1